

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

HERBERT ELESH,)
Plaintiff,) Case No. 13-cv-04779
v.) Hon. Robert W. Gettleman
DEUTSCHE BANK NATIONAL)
TRUST COMPANY,) Removed from Cook County
Defendant.) Case No. 13 M2 01128

DEFENDANT'S MOTION TO DISMISS PURSUANT TO FED.R.CIV.P. 12b(6)

NOW COMES Defendant, Deutsche Bank National Trust Company, as Trustee Under Pooling and Servicing Agreement Dated as of July 1, 2005 Morgan Stanley ABS Capital I Inc. Trust 2005-HE3 Mortgage Pass-Through Certificates, Series 2005-HE3, incorrectly captioned as "Deutsche Bank National Trust Company" ("Deutsche Bank" or "Defendant"), by its attorneys Morris, Laing, Evans, Brock & Kennedy, Chtd., and files its Motion to Dismiss pursuant to Fed.R.Civ.P. 12b(6). For the reasons outlined in the accompany Memorandum in Support of Motion to Dismiss, Plaintiff has failed to state a claim for relief.

WHEREFORE, Defendant respectfully requests this Court grant its Motion to Dismiss, award costs and fees for having to defend the matter and for any other relief as may be proper.

Respectfully Submitted,

Morris, Laing, Evans, Brock & Kennedy Chtd.

/s/ Justin F. Carter

Justin F. Carter (23358)
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CERTIFICATE OF SERVICE

I hereby certify that on August 7, 2013, I electronically filed the Notice of Motion, Defendant's Motion to Dismiss and Memorandum in Support of Motion to Dismiss with the Clerk of the Court using the CM/ECF system which will send notification of such filing(s) to all parties of record through said system. Additionally, a copy of the foregoing was served on the below parties via first class mail, pre-paid, a copy of which was placed in the USPS mailbox at 1 E. Wacker Drive, Chicago, IL 60601 at or before 5:00PM on August 7, 2013.

Herbert Elesh
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Respectfully Submitted,

Morris, Laing, Evans, Brock & Kennedy Chtd.

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